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[Third Party Communication:

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From: [REDACTED]

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To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: TEFRA question

The amount of the losses and their character as trade or business, rental or portfolio income on a partnership return, or as redetermined through an FPAA, is binding under section 469 for purposes of any later partner stat notice proceeding limiting deductions of the partners based on their material participation. A no change FPAA can serve this purpose as well as allowing the statute to expire for issuing an FPAA if we agree with the partnership level reporting. See *Roberts v. Commissioner*, 94 T.C. 853, 860-62 and *Estate of Quick v. Commissioner*, 110 T.C. 172, 188 (1998). It is better to issue an FPAA since this gives the partners the opportunity to contest any partnership-level characterization and gives the Service one year after this determination becomes final to issue any partner-level stat notices limiting a partner's losses under section 469. Otherwise we would have to issue the affected item stat notices just before the statute expires without benefit of the one year extension under section 6229(d).